



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2012-34

Legistar #: 20120825

Board of Zoning Appeals Hearing: Monday, September 24, 2012 – 6:00 p.m.

Applicant: Stanley Hill
H & T Consultants
9310 Old Kings Road South
Suite 1001
Jacksonville, Florida 32257

Property Owner: Buford Clairmont Company, Ltd
% Philip Sunshine
3715 Northside Parkway
Building 200-410
Atlanta, GA 30327

Address: 621 South Marietta Parkway

Land Lot: 03610 **District:** 17 **Parcel:** 0110

Council Ward: 1 **Existing Zoning:** CRC (Community Retail Commercial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to allow accessory use/structure to be installed in front of the principal building.
[§ 708.16(F)]

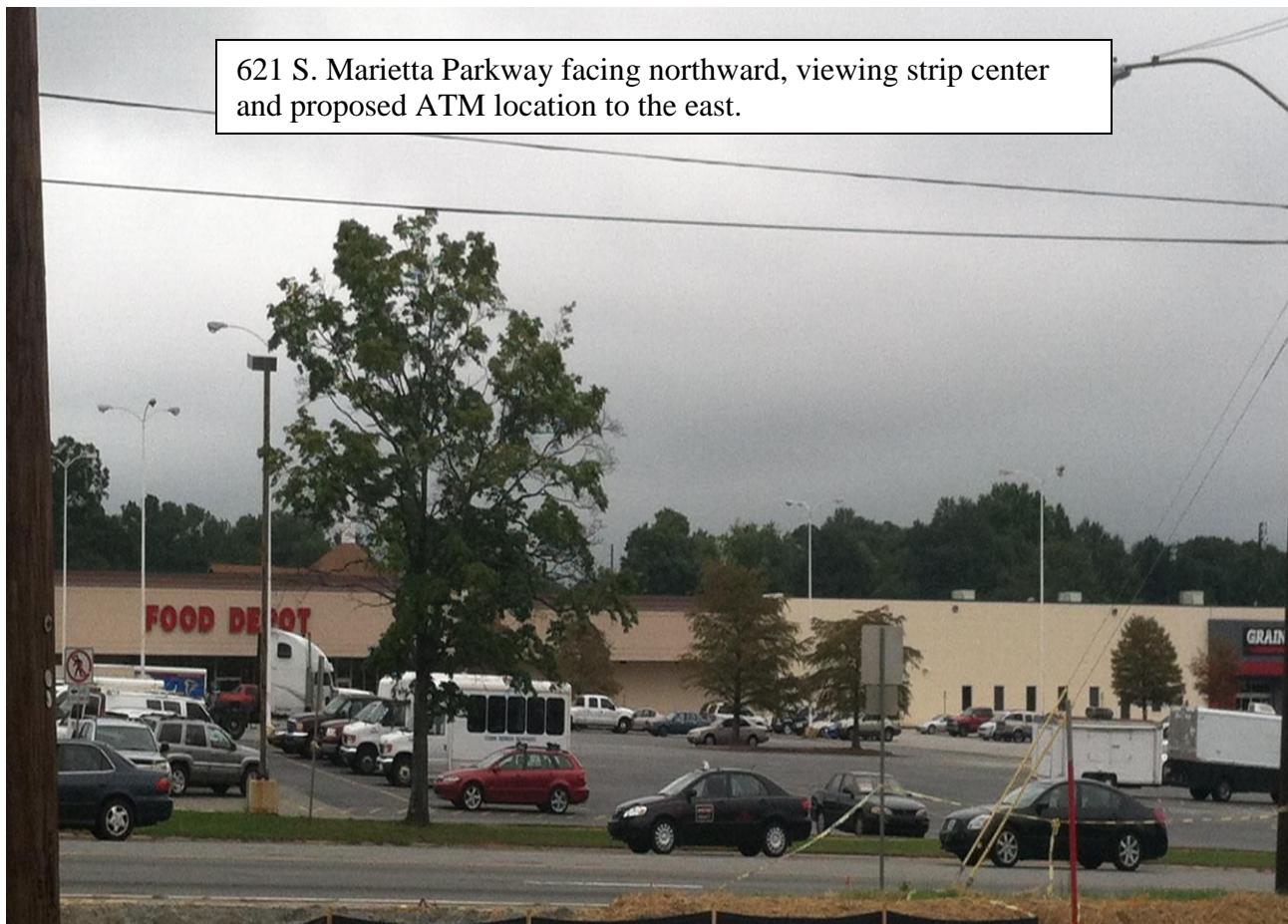
Statement of Fact

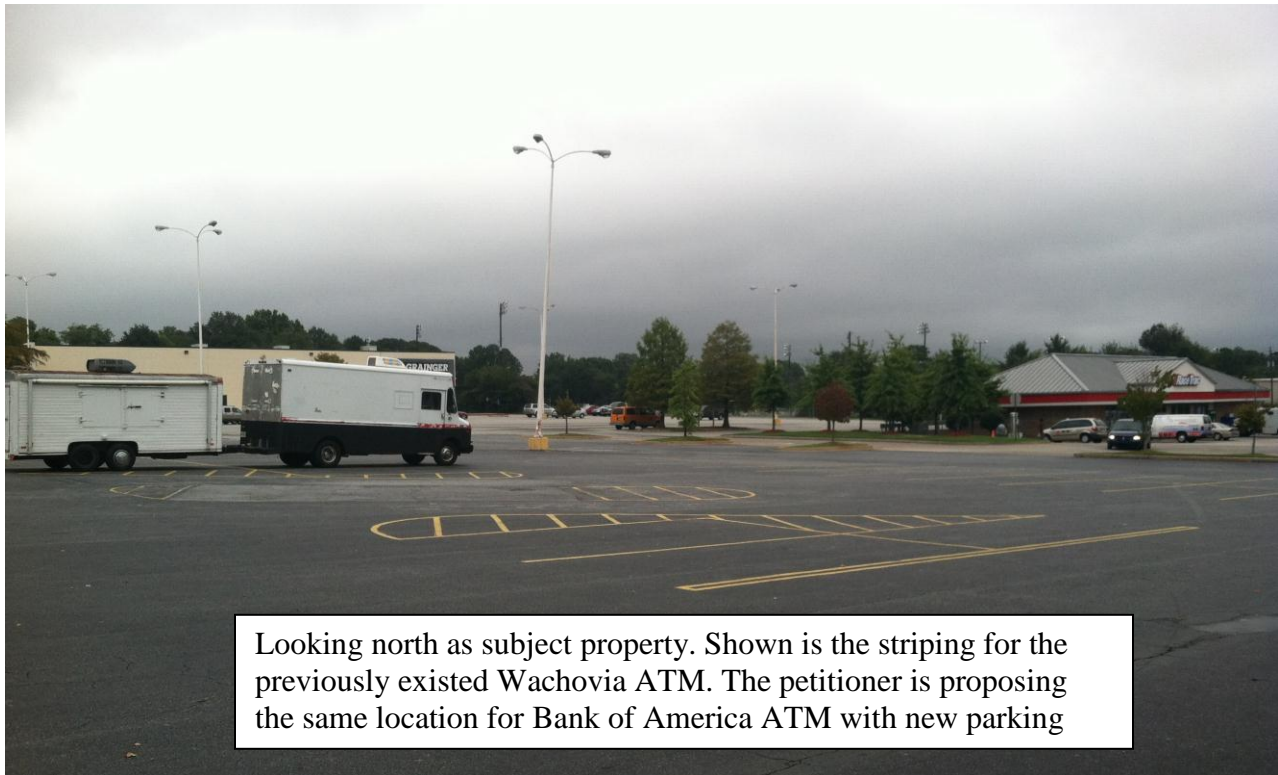
As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES





Looking north as subject property. Shown is the striping for the previously existed Wachovia ATM. The petitioner is proposing the same location for Bank of America ATM with new parking

Recommended Action:

Approval. Stanley Hill, petitioner for the owner, Buford Clairmont Company LLC., is requesting a variance for the property located at 621 S. Marietta Parkway that would allow them to install an automatic teller machine (ATM) in the parking lot of the shopping center. The property is zoned CRC (Community Retail Commercial), and is located along S. Marietta Parkway near S. Fairground Street and across the street from the Cobb Community Transit (CCT) station and park-and-ride lot.

As defined in Section 724 of the Zoning Ordinance, an *Automated teller machine is a mechanized consumer device that is operated by a customer and which performs banking and financial functions at a location remote from the controlling financial institution. An automated teller machine is an accessory use.* Further, Section 708.16(F) requires accessory structures to be located to the side or rear of the principal building.

The proposed location of the ATM is in front of the shopping center building on the site. It is clear that there had been an ATM associated with Wachovia Bank at this same location for many years, but that ATM was removed in October 2008. Any new ATM, or any other kind of accessory structure, now has to meet current regulations or seek a variance to permit such a structure to be placed in front of the principal building.

According to the submitted site plans, the proposed ATM will be 60 ft. from the existing right-of-way, and therefore will not interfere with site distance along the South Marietta Parkway corridor. The proposed ATM is to be located in the same area as the previous Wachovia ATM, and will not impact any parking spaces on the subject property.

Given the design of the shopping center and its parking lot, there is no more practical location for any accessory structure, including the proposed ATM, to be located. In addition, the ATM that had previously been at this location had no negative impact on this site or any of the surrounding properties; and operated successfully for many years prior to its removal in 2008. As such, ***Staff recommends approval of these variance requests, with the stipulation that the design and material of the proposed ATM will be substantially similar to the rendering attached to this report, and as pictured below.***

